

SEVENTY-THIRD DAY - MAY 5, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****SEVENTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, May 5, 2005

PRAYER

The prayer was offered by Pastor Robert Lawrence, South Auburn Church of Christ, Auburn.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Dw. Pedersen who was excused; and Senators Cunningham, Janssen, Landis, and Mines who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventy-second day was approved.

COMMUNICATION

Received petition from the Douglas County Board of Commissioners adopted on May 3, 2005.

GENERAL FILE

LEGISLATIVE BILL 425. Senator Schimek renewed her pending motion, found on page 1376, to reconsider the vote on AM1374.

Senator Engel moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 3 nays, and 19 not voting.

Senator Schimek moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Schimek requested a roll call vote on her motion to reconsider.

Voting in the affirmative, 14:

Aguilar	Howard	Kruse	Pederson, D.	Schimek
Brown	Janssen	Landis	Price	Thompson
Chambers	Johnson	McDonald	Raikes	

Voting in the negative, 27:

Baker	Erdman	Hudkins	Mines	Stuhr
Burling	Fischer	Jensen	Pahls	Stuthman
Byars	Flood	Kopplin	Preister	Wehrbein
Cornett	Foley	Kremer	Redfield	
Cunningham	Friend	Langemeier	Schrock	
Engel	Heidemann	Louden	Smith	

Present and not voting, 5:

Beutler	Bourne	Connealy	Cudaback	Synowiecki
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Excused and not voting, 3:

Brashear	Combs	Pedersen, Dw.
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The Schimek motion to reconsider failed with 14 ayes, 27 nays, 5 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, AM1429, found on page 1360, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 2 nays, and 31 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 13:

Aguilar	Connealy	Howard	Louden	Schrock
Brashear	Cornett	Kopplin	Pahls	
Chambers	Cudaback	Landis	Price	

Voting in the negative, 14:

Bourne	Engel	Janssen	Redfield	Stuthman
Brown	Erdman	Langemeier	Smith	Wehrbein
Byars	Hudkins	Preister	Stuhr	

Present and not voting, 20:

Baker	Fischer	Heidemann	Kruse	Raikes
Beutler	Flood	Jensen	McDonald	Schimek
Burling	Foley	Johnson	Mines	Synowiecki
Cunningham	Friend	Kremer	Pederson, D.	Thompson

Excused and not voting, 2:

Combs Pedersen, Dw.

The Chambers amendment lost with 13 ayes, 14 nays, 20 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Raikes renewed the Raikes et al. pending amendment, AM1432, found on page 1371, to the Standing Committee amendment.

Senator Raikes withdrew the Raikes et al. amendment.

Senator D. Pederson renewed his pending amendment, AM1364, found on page 1371, to the Standing Committee amendment.

The D. Pederson amendment was adopted with 33 ayes, 0 nays, 14 present and not voting, and 2 excused and not voting.

Senator Byars renewed his pending amendment, AM1440, found on page 1372, to the Standing Committee amendment.

Pending.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 421. Placed on Select File as amended.

E & R amendment to LB 421:

AM7093

- 1 1. In the Standing Committee amendments, AM1240, on page
- 2 7, line 5, strike "education" and insert "educational".
- 3 2. On page 1, line 6, strike "73,"; and in line 9 strike
- 4 "168" and insert "167".

LEGISLATIVE BILL 422. Placed on Select File.

LEGISLATIVE BILL 423. Placed on Select File.

LEGISLATIVE BILL 424. Placed on Select File.

(Signed) Michael Flood, Chairperson

AMENDMENTS - Print in Journal

Senator Schrock filed the following amendment to LB 90:
AM1459

- 1 1. Insert the following new section:
- 2 "Section 1. Section 66-1214, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 66-1214. (1) Commencing January 1, 1986, motor fuel
- 5 dispensers shall be labeled on both faces with the product identity
- 6 using the most descriptive terms commercially practicable. In
- 7 addition, all alcohol-blended fuel dispensers shall have a label
- 8 stating: With or containing ethanol, methanol, or ethanol and
- 9 methanol or with similar wording if the motor fuel being dispensed
- 10 contains one percent or more by volume of alcohol.
- 11 (2) Any retailer of motor vehicle fuel shall have at
- 12 least one motor fuel dispenser that dispenses alcohol-blended fuel
- 13 if the retailer has two or more motor fuel dispensers.
- 14 (3) Any person who owns or controls such a motor fuel
- 15 dispenser and does not attach the notice required by comply with
- 16 this section shall be guilty of an infraction."
- 17 2. Renumber the remaining sections and correct internal
- 18 references and the repealer accordingly.

Senator Beutler filed the following amendment to LB 57:
AM1377

- 1 1. On page 3, line 2, after "child" insert "except the
- 2 illegal taking of a controlled substance with knowledge of her
- 3 pregnancy".

Senator Beutler filed the following amendment to LB 57:
AM1369

- 1 1. On page 2, lines 12, 17, and 23, after "she" insert
- 2 ". knowing of the mother's pregnancy."; and in lines 13, 18, and 24
- 3 strike "an" and insert "her".

RESOLUTION

LEGISLATIVE RESOLUTION 99. Introduced by Brown, 6.

PURPOSE: To further study the issues raised by the introduction of Legislative Bill 490 during the 2005 legislative session, including determining the extent of the use of governmental entities' geographic computer databases by the public and whether restrictions should be placed on those who would access these databases.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 683A. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 683, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

VISITORS

Visitors to the Chamber were 45 fourth-grade students and teachers from Arbor Park Middle School, Blair; Tim Eckhout from Lincoln; 46 fourth-grade students and teachers from Conestoga Elementary School, Omaha; 50 fourth-grade students and teachers from Westlawn Elementary School, Grand Island; 28 fourth- and fifth-grade students and teacher from Ansley; and 15 students from District 30.

RECESS

At 12:00 p.m., on a motion by Senator Pahls, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Hudkins and Dw. Pedersen who were excused; and Senators Cunningham, Kruse, Landis, Price, and Raikes who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 425. Senator Byars renewed his pending amendment, AM1440, found on page 1372 and considered in this day's Journal, to the Standing Committee amendment.

Senator Jensen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 4 nays, and 19 not voting.

Senator Byars moved for a call of the house. The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

Senator Byars requested a roll call vote on his amendment.

Senator Thompson requested the roll call vote be taken in reverse order.

Voting in the affirmative, 17:

Aguilar	Connealy	Howard	Louden	Stuthman
Bourne	Cornett	Janssen	McDonald	
Byars	Cunningham	Jensen	Pahls	
Combs	Fischer	Kopplin	Schimek	

Voting in the negative, 17:

Baker	Erdman	Mines	Redfield	Wehrbein
Beutler	Kremer	Pederson, D.	Smith	
Brown	Kruse	Price	Synowiecki	
Chambers	Langemeier	Raikes	Thompson	

Present and not voting, 12:

Brashear	Engel	Friend	Preister
Burling	Flood	Heidemann	Schrock
Cudaback	Foley	Johnson	Stuhr

Excused and not voting, 3:

Hudkins	Landis	Pedersen, Dw.
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The Byars amendment lost with 17 ayes, 17 nays, 12 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Mines renewed his pending amendment, AM1438, found on page 1372, to the Standing Committee amendment.

Senator Stuthman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 5 nays, and 18 not voting.

Senator Mines moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Senator D. Pederson requested a roll call vote, in reverse order, on the Mines amendment.

Voting in the affirmative, 16:

Bourne	Cornett	Kopplin	Preister
Brashear	Friend	McDonald	Price
Brown	Howard	Mines	Schimek
Connealy	Janssen	Pahls	Stuthman

Voting in the negative, 27:

Baker	Cunningham	Heidemann	Louden	Stuhr
Burling	Engel	Johnson	Pederson, D.	Thompson
Byars	Erdman	Kremer	Raikes	Wehrbein
Chambers	Fischer	Kruse	Redfield	
Combs	Flood	Landis	Schrock	
Cudaback	Foley	Langemeier	Smith	

Present and not voting, 3:

Beutler	Jensen	Synowiecki
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Excused and not voting, 3:

Aguilar	Hudkins	Pedersen, Dw.
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The Mines amendment lost with 16 ayes, 27 nays, 3 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Pending.

NOTICE OF COMMITTEE HEARING
Health and Human Services
 Room 1510

Tuesday, May 17, 2005

1:00 p.m.

Luana Duennerman - Commission for the Deaf and Hard of Hearing

(Signed) Jim Jensen, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 100. Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Combs, 32; Connealy, 16; Cornett, 45; Janssen, 15; Schimek, 27; and Engel, 17; Wehrbein, 2.

PURPOSE: The purpose of this study is to examine in more depth the issues raised by LB 630 which was heard by the Urban Affairs Committee during

the 2005 legislative session. That legislation endeavored to deal with the impact of municipal annexation of land located within the boundaries of a rural water district. This study would seek to identify alternative solutions to the problem and to determine how best, consistent with existing state and federal law, to ameliorate the impact of the annexation upon the remaining property and owners of land within the rural water district, including options requiring the municipality to reimburse the rural water district for the lost revenue that results because of the loss of existing rate payers and a formula for payments that would recognize the impact of future losses sustained by the district due to its inability to replace lost revenue with new rate payers.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

AMENDMENTS - Print in Journal

Senator Chambers filed the following amendment to LB 683:
AM1461

(Amendments to Standing Committee amendments, AM0641)

- 1 1. On page 1, line 9, strike "sixty" and insert
- 2 "seventy-five".
- 3 2. On page 2, line 18, after "hundred" insert
- 4 "fourteen".
- 5 3. On page 3, line 1, strike "ninety" and insert
- 6 "ninety-eight"; in line 20 strike "seventy-five" and insert
- 7 "eighty-four"; in line 22 strike "seventy-five" and insert
- 8 "ninety-one"; in line 23 strike "seventy-five" and insert
- 9 "eighty-seven"; and in line 24 strike "sixty-five" and insert
- 10 "seventy-eight".

Senator Aguilar filed the following amendment to LB 117:
AM1456

(Amendments to E & R amendments, AM7091)

- 1 1. Insert the following new section:
- 2 "Sec. 7. Section 28-707, Revised Statutes Supplement,
- 3 2004, is amended to read:
- 4 28-707. (1) A person commits child abuse if he or she
- 5 knowingly, intentionally, or negligently causes or permits a minor
- 6 child to be:
- 7 (a) Placed in a situation that endangers his or her life
- 8 or physical or mental health;
- 9 (b) Cruelly confined or cruelly punished;

- 10 (c) Deprived of necessary food, clothing, shelter, or
 11 care;
 12 (d) Placed in a situation to be sexually exploited by
 13 allowing, encouraging, or forcing such minor child to solicit for
 14 or engage in prostitution, debauchery, public indecency, or obscene
 15 or pornographic photography, films, or depictions; ~~or~~
 16 (e) Placed in a situation to be sexually abused as
 17 defined in section 28-319 or 28-320.01; or
 18 (f) Placed in or near the processing, cooking, or
 19 manufacturing of methamphetamine.
 20 (2) The statutory privilege between patient and
 21 physician, between client and professional counselor, and between
 22 husband and wife shall not be available for excluding or refusing
 23 testimony in any prosecution for a violation of this section.
 1 (3) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 2 (1)(d), or (1)(e) of this section is a Class I misdemeanor if the
 3 offense is committed negligently.
 4 (4) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 5 (1)(d), or (1)(e) of this section is a Class IIIA felony if the
 6 offense is committed knowingly and intentionally and does not
 7 result in serious bodily injury as defined in section 28-109.
 8 (5) Child abuse under subdivision (1)(a), (1)(b), (1)(c),
 9 (1)(d), or (1)(e) of this section is a Class III felony if the
 10 offense is committed knowingly and intentionally and results in
 11 serious bodily injury as defined in ~~such~~ section 28-109.
 12 (6) Child abuse under subdivision (1)(f) of this section
 13 is a Class III felony.
 14 (7) Child abuse is a Class IB felony if the offense is
 15 committed knowingly and intentionally and results in the death of
 16 such child."
 17 2. On page 18, line 15, strike "and" and after "28-456"
 18 insert ", and 28-707".
 19 3. Renumber the remaining section accordingly.

Senators Redfield and Chambers filed the following amendment to LB 40:
 AM1446

(Amendments to AM1227)

- 1 1. Insert the following new section:
 2 "Sec. 3. Section 58-708, Reissue Revised Statutes of
 3 Nebraska, is amended to read:
 4 58-708. (1) For purposes of this section, Community
 5 Development Block Grant means the grants distributed by the United
 6 States Department of Housing and Urban Development pursuant to the
 7 Housing and Community Development Act of 1974.
 8 (2) During each calendar year in which funds are
 9 available from the Affordable Housing Trust Fund for use by the
 10 Department of Economic Development, the department shall allocate a
 11 specific amount of funds equal to a per capita share of the
 12 qualified allocation plan fund amount to each Community Development

13 Block Grant entitlement area. The department shall announce a
 14 grant and loan application period of at least ninety days duration
 15 for all nonentitlement areas. In selecting projects to receive
 16 trust fund assistance, the department shall develop a qualified
 17 allocation plan and give first priority to financially viable
 18 projects that serve the lowest income occupants for the longest
 19 period of time. The qualified allocation plan shall:
 20 (a) Set forth selection criteria to be used to determine
 21 housing priorities of the housing trust fund which are appropriate
 22 to local conditions, including the community's immediate need for
 23 affordable housing, proposed increases in home ownership, private
 1 dollars leveraged, level of local government support and
 2 participation, and repayment, in part or in whole, of financial
 3 assistance awarded by the fund; and
 4 (b) Give first priority in allocating trust fund
 5 assistance among selected projects to those projects which serve
 6 the lowest income occupant and are obligated to serve qualified
 7 occupants for the longest period of time.
 8 ~~(2)~~ (3) The department shall fund in order of priority as
 9 many applications as will utilize available funds less actual
 10 administrative costs of the department in administering the
 11 program. In administering the program the department may contract
 12 for services or directly provide funds to other governmental
 13 entities or instrumentalities."
 14 2. On page 10, line 5, after the second comma insert
 15 "58-708,".
 16 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 425. Senator Chambers asked unanimous consent to withdraw his pending amendment, AM1441, found on page 1373, and replace it with the Chambers-Brashear substitute amendment, AM1463, to the Standing Committee amendment. No objections. So ordered.
 AM1463

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 82, after line 24 insert:
- 2 "FY2005-06 FY2006-07
- 3 GENERAL FUND 200,000 200,000
- 4 PROGRAM TOTAL 200,000 200,000
- 5 SALARY LIMIT 200,000 200,000"
- 6 and strike line 27.
- 7 2. On page 83, strike lines 1 through 6.

SENATOR SCHIMEK PRESIDING

The Chambers-Brashear amendment was adopted with 26 ayes, 2 nays, 17 present and not voting, and 4 excused and not voting.

Senator Chambers renewed his pending amendment, AM1379, found on page 1374, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 23 ayes, 1 nay, and 25 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Aguilar	Cornett	Johnson	Mines	Schimek
Bourne	Cudaback	Kopplin	Pahls	Synowiecki
Chambers	Howard	Kruse	Price	Thompson
Connealy	Janssen	Landis	Raikes	

Voting in the negative, 10:

Engel	Fischer	Friend	Langemeier	Smith
Erdman	Foley	Kremer	Louden	Stuthman

Present and not voting, 12:

Beutler	Burling	Heidemann	Schrock
Brashear	Combs	Jensen	Stuhr
Brown	Flood	Pederson, D.	Wehrbein

Excused and not voting, 8:

Baker	Cunningham	McDonald	Preister
Byars	Hudkins	Pedersen, Dw.	Redfield

The Chambers amendment lost with 19 ayes, 10 nays, 12 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

SENATOR CUDABACK PRESIDING

Senator Chambers withdrew his pending amendments, AM1380 through AM1428 and AM1436, on file and referred to on page 1374.

Senator Chambers renewed his pending amendment, AM1442, found on page 1374, to the Standing Committee amendment.

Senator Chambers withdrew his amendment.

Senator Chambers withdrew his pending amendment, AM1444, found on page 1375.

adoption of amendments to the code in 2004 and 2005. In order to carry out the purpose of this resolution, the committee's review should include, as it deems necessary and beneficial, the input and assistance of interested persons, legal and scholarly commentary nationwide on the Uniform Trust Code, and legislation on this subject in other jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 102. Introduced by Smith, 48.

PURPOSE: To examine the feasibility, ramifications, and costs of electronic waste recycling in Nebraska, including the necessary and potential timeframes for implementation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

GENERAL FILE

LEGISLATIVE BILL 425. Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1455

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 5, strike line 15 and insert "GENERAL FUND
- 2 23,605,816 24,308,960"; and strike line 18 and insert "PROGRAM
- 3 TOTAL 25,240,321 25,948,965".

Senator Chambers withdrew his amendment.

Senator Chambers offered the following amendment to the Standing Committee amendment:

AM1454

(Amendments to Standing Committee amendments, AM0521)

- 1 1. On page 5, strike line 15 and insert "GENERAL FUND

2 23,638,316 24,343,960"; strike line 18 and insert "PROGRAM TOTAL
3 25,272,821 25,983,965".

Senator Chambers moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

The Chambers amendment was adopted with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Bourne withdrew his pending amendment, FA216, found on page 1372.

The Standing Committee amendment, AM0521, printed separately and referred to on page 1334 and considered on page 1369, as amended, was renewed.

The Standing Committee amendment, as amended, was adopted with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 42 ayes, 0 nays, 2 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 426. Title read. Considered.

The Standing Committee amendment, AM1282, printed separately and referred to on page 1334, was adopted with 31 ayes, 0 nays, 12 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 427. Title read. Considered.

The Standing Committee amendment, AM1288, found on page 1334, was considered.

Senator Chambers withdrew his pending amendments, AM1443 and AM1445, found on page 1376.

The Standing Committee amendment was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 5 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 614. Title read. Considered.

The Standing Committee amendment, AM0997, found on page 1336, was considered.

Senator Mines moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Standing Committee amendment was adopted with 37 ayes, 0 nays, 6 present and not voting, and 6 excused and not voting.

Senator Smith moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

Advanced to E & R for review with 36 ayes, 4 nays, 3 present and not voting, and 6 excused and not voting.

VISITORS

Visitors to the Chamber were Matthew and Sara Dean and Julie Parker from Fairbury; 21 fourth-grade students, teacher, and principal from E.N. Swett Elementary School, South Sioux City; and 100 fourth-grade students and teachers from Neihardt Elementary School, Omaha.

The Doctor of the Day was Dr. David Minnick from Broken Bow.

ADJOURNMENT

At 8:07 p.m., on a motion by Speaker Brashear, the Legislature adjourned until 9:00 a.m., Friday, May 6, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

